



February 20, 2004

ENGROSSED SENATE BILL No. 74

DIGEST OF SB 74 (Updated February 18, 2004 3:24 pm - DI 107)

Citations Affected: IC 34-54.

Synopsis: Foreign judgments. Provides that defenses raised by a foreign judgment debtor must be ruled upon before: (1) execution of the foreign judgment; or (2) the foreign judgment constitutes a lien. Provides that a foreign judgment creditor is entitled to the same prejudgment remedies as an Indiana judgment creditor. Authorizes an Indiana court in which a foreign judgment is filed to preliminarily litigate certain postjudgment motions.

Effective: Upon passage.

Long, Broden

(HOUSE SPONSORS — KUZMAN, KOCH, DVORAK, FOLEY)

December 2, 2003, read first time and referred to Committee on Judiciary.
January 22, 2004, reported favorably — Do Pass.
January 26, 2004, read second time, ordered engrossed. Engrossed.
January 27, 2004, read third time, passed. Yeas 47, nays 0.

HOUSE ACTION

February 4, 2004, read first time and referred to Committee on Judiciary.
February 19, 2004, amended, reported — Do Pass.

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ES 74—LS 6202/DI 105+



February 20, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 74

A BILL FOR AN ACT to amend the Indiana Code concerning civil law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 34-54-11-2, AS ADDED BY P.L.40-2003,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 2. (a) A judgment creditor filing a foreign
4 judgment under this chapter must file an affidavit with the clerk of the
5 court in which the foreign judgment is filed at the time the foreign
6 judgment is filed. The affidavit must set forth:
7 (1) the name and last known address of the judgment debtor; and
8 (2) the name and last known address of the judgment creditor.
9 (b) The judgment creditor must send notice of the filing of the
10 foreign judgment in the same process prescribed under Indiana Trial
11 Rule 4 through Indiana Trial Rule 4.17.
12 (c) The notice described in subsection (b) must contain:
13 (1) the name and address of the judgment creditor;
14 (2) the name and address of the judgment creditor's attorney, if
15 any; and
16 (3) the nature and amount of the judgment creditor's claim under
17 the foreign judgment.

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(d) Execution or other process for the enforcement of a foreign judgment may not be issued earlier than twenty-one (21) days after the entry of the judgment in the judgment's original jurisdiction.

(e) Not later than twenty-one (21) days after the date notice is served to the judgment debtor by the judgment creditor or the judgment creditor's attorney, the judgment debtor may file a notice with the court in which the judgment has been filed asserting any defenses that would prohibit the judgment creditor from execution or another process for enforcement of the foreign judgment.

(f) If a judgment debtor files a timely notice under subsection (e), a foreign judgment may not:

(1) constitute a lien under IC 34-55-9-2; or

(2) be enforced by execution or another process for enforcement of the foreign judgment;

until the court in which the foreign judgment is filed has issued an order sustaining or overruling each defense asserted in the notice under subsection (e).

(g) A creditor filing a foreign judgment is entitled to any prejudgment remedy that is available to a creditor in an Indiana court during the pendency of the proceeding to determine the availability of a defense under subsection (f).

(h) A court in which a foreign judgment is filed may issue an order staying the time within which a debtor notice must be filed under subsection (e) if the court determines that litigation of a postjudgment motion:

(1) is appropriate; and

(2) would be available if the judgment had been obtained in an Indiana court.

(i) If a court stays the time within which a debtor notice must be filed under subsection (h), a foreign judgment may not:

(1) constitute a lien under IC 34-55-9-2; or

(2) be enforced by execution or another process for enforcement of the foreign judgment;

during the period of the stay.

SECTION 2. An emergency is declared for this act.

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COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 74, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 74 as introduced.)

BRAY, Chairperson

Committee Vote: Yeas 9, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 74, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Replace the effective date in SECTION 1 with "[EFFECTIVE UPON PASSAGE]".

Page 2, after line 34, begin a new paragraph and insert:

"SECTION 2. **An emergency is declared for this act.**".

and when so amended that said bill do pass.

(Reference is to SB 74 as printed January 23, 2004.)

LAWSON L, Chair

Committee Vote: yeas 11, nays 0.

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